

STATE OF INDIANA
IN THE KOSCIUSKO CIRCUIT COURT

WARREN S. WISEMAN and
PATRICIA A. WISEMAN,

Plaintiffs,

vs

CAUSE NO. C-76-482

CHARLES H. HIMES and
GRACE HIMES, Husband and
Wife

HIMCO WASTE AWAY SERVICE, INC.,
a corporation

CLD CORPORATION, a corporation

MILES LABORATORIES, INC., a
corporation

ELKHART GENERAL HOSPITAL, INC.,
a non-profit corporation

WHITEHALL LABORATORIES, A
Division of American Home
Products Corporation, a
corporation

JOSEPHINE L. COOPER

Defendants

Deposition of PAUL R. BRANDT,
taken on the part of the Plaintiff in the above entitled
cause before Sandra L. Szymarek, Official Court Reporter
for the Elkhart County Court, Elkhart Division, Elkhart
Indiana on March 9, 1978 at approximately 3:30 P.M. in the
Elkhart County Courts Building, 315 So. 2nd Street, Elkhart,
Indiana.

Sandra L. Szymarek
Certified Shorthand Reporter
1307 West Dunham Street
South Bend, Indiana 46619

STATE OF INDIANA
IN THE KOSCIUSKO CIRCUIT COURT

JAMES K. KOLANOWSKI and
HELEN J. KOLANOWSKI,

Plaintiffs,

vs

CAUSE NO. C-76-483

CHARLES H. HIMES and
GRACE HIMES, Husband and
Wife

HIMCO WASTE AWAY SERVICE, INC.,
a corporation

CLD CORPORATION, a corporation

MILES LABORATORIES, INC., a
corporation

ELKHART GENERAL HOSPITAL, INC.,
a non-profit corporation

WHITEHALL LABORATORIES, A
Division of American Home
Products Corporation, a
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Defendants

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STATE OF INDIANA
IN THE KOSCIUSKO CIRCUIT COURT

HERMAN C. RUMFELT and)	
PATRICIA C. RUMFELT,)	
)	
Plaintiffs,)	
)	
vs)	CAUSE NO. C-76-484
)	
CHARLES H. HIMES and)	
GRACE HIMES, Husband and)	
Wife)	
)	
HIMCO WASTE AWAY SERVICE, INC.,)	
a corporation)	
)	
CLD CORPORATION, a corporation)	
)	
MILES LABORATORIES, INC., a)	
corporation)	
)	
ELKHART GENERAL HOSPITAL, INC.,)	
a non-profit corporation)	
)	
WHITEHALL LABORATORIES, A)	
Division of American Home)	
Products Corporation, a)	
corporation)	
)	
JOSEPHINE L. COOPER)	
)	
Defendants)	

Deposition of PAUL R. BRANDT,
taken on the part of the Plaintiff in the above entitled
cause before Sandra L. Szymarek, Official Court Reporter
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Indiana on March 9, 1978 at approximately 3:30 P.M. in the
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Elkhart, Indiana.

Sandra L. Szymarek
Certified Shorthand Reporter
1307 West Dunham Street
South Bend, Indiana 46619

A P P E A R A N C E S

MR. W. RICHARD HERRON

Attorney at Law
301 West Franklin
Elkhart, Indiana 46514

On behalf of the Plaintiffs;

MRS. MARY E. DAVIS

Attorney at Law
317 West High Street
Elkhart, Indiana 46514

On behalf of Whitehall Laboratories, A
Division of American Home Products Corporation,
a corporation;

MR. MICHAEL GIANUNZIO

Attorney at Law
Miles Laboratories, Inc.
Elkhart, Indiana 46514

On behalf of Miles Laboratories, Inc., a
corporation;

MR. RICHARD E. STEINBRONN

Attorney at Law
305 1st National Bank Building
Elkhart, Indiana 46514

On behalf of CLD Corporation, a corporation
and Elkhart General Hospital, Inc., a non-profit
corporation

MR. RONALD C. METEIVER

Attorney at Law
St. Joseph Valley Bank Building
Elkhart, Indiana 46514

On behalf of Charles H. Himes and Grace Himes,
Husband and Wife and Himco Waste Away Service, Inc.,
a corporation.

ALSO PRESENT: Charles H. Himes

Sandra L. Szymarek
Certified Shorthand Reporter
1307 West Dunham Street
South Bend, Indiana 46619

1 PAUL F. BRANDT

2 being duly sworn by the Reporter, was examined upon
3 his oath as follows:

4 DIRECT EXAMINATION

5 BY MR. HERRON:

6 Q Will you state your full name, please.

7 A Paul Frederick Brandt.

8 Q What is your age?

9 A Sixty.

10 Q What is your social security number?

11 A 048-05-3605.

12 Q Where do you live, Mr. Brandt?

13 A I live at 199 Manor Avenue, Elkhart.

14 Q Will you outline your full formal education?

15 A After high school?

16 Q Yes, please.

17 A It consisted of four years at Yale University, majoring
18 in Chemistry, graduating with a B. S. Degree from
19 Sheffield Scientific School, part of Yale University at
20 that time.

21 Q When did you obtain that degree?

22 A 1938.

23 Q Have you had any formal education since your baccalaureate
24 degree?

25 A Nothing leading to a degree of any kind. I've taken other

1 courses; shipping and some financial courses and this
2 type of thing to round out my education.

3 Q What was your degree in?

4 A Chemistry.

5 Q Did you take any courses in geology?

6 A No, I did not.

7 Q Have you ever had any courses or attended any seminars
8 on waste disposal or landfill management?

9 A No, I have not.

10 Q Would you trace for us, please, your employment since
11 receiving your baccalaureate degree.

12 A After I graduated, starting in 1938, I was employed by
13 J.B. Williams Company whose plant was in Kentucky. I
14 started as a quality control chemist for about a year and
15 a half. I was then transferred to their plant in Montreal
16 in 1939; at the start of the second world war, and I
17 worked in Montreal as plant manager up there until 1950.

18 Q Excuse me. What business was that?

19 A Well, they're in cosmetic and soap business. They make
20 shaving cream, Aqua Velva; consumer products of that
21 sort.

22 Q Continue.

23 A 1950 they transferred me back to the United States plant
24 where I worked as a plant manager for J.B. Williams till
25 1956 and in 1956 I left Williams and I came out to

1 Whitehall here in Elkhart, and I started with Whitehall
2 as an Industrial Engineer. I worked at that for about
3 two years and I became Packaging Department Manager until
4 about 1964, something like that, and then I was made
5 assistant plant manager in Elkhart. In 1966 I was made
6 plant manager at Elkhart.

7 Q And that is your present job?

8 A I'm plant manager and assistant vice-president of
9 Whitehall.

10 Q Is Whitehall a corporation?

11 A No. It's a division of American Home Products Corporation.

12 Q It's not a separate entity?

13 A No, it's not.

14 Q Mr. Brandt, who is in charge of waste disposal at
15 Whitehall Laboratories?

16 A Well, really it comes under several people. It used to
17 be under the direction of our shipping and warehouse
18 manager, but at the time, we put compactors in and did
19 away with our incinerator operation. We then put it
20 under plant maintenance and plant engineer because of
21 the equipment; machinery involved, so the direction of
22 it now pretty much comes under his jurisdiction.

23 Q Let's go to the years, '68 and '69. Whose direction
24 was it under at that time?

25 A It was under the direction of Mr. Robert Cosby.

1 Q And what department?

2 A He was department manager of shipping and warehouse.

3 Q When did it change to a different department?

4 A I believe it was March of 1975 when we first put our
5 compactors in operation.

6 Q From 1968 through 1975, who disposed of your waste?

7 A Himco.

8 Q Will you explain to me what your compactors are?

9 A Yes. They are machines that have hydraulic rams in
10 them. We dump waste into a bin and hydraulic rams push
11 the waste into a container, which is outside of the
12 building and supplied by Himco and presses it and compacts
13 it into a container until such time that it is full and
14 they come and pick it up and take it away.

15 Q So Himco has continued to dispose of your waste since
16 the installation of your compactors?

17 A Yes. That's correct.

18 Q Mr. Brandt, will you describe what kind of waste you
19 dispose of at Whitehall from 1968 to mid 1976?

20 A Well, much of our waste has been broken bottles, caps,
21 destroyed or damaged cartons of all kinds, some damaged
22 finished stock that we may produce on the line or have
23 come back from customers and in addition, of course, some
24 raw materials which we use in various products, paper
25 bags. At that time, of course, most of that time, we

1 were burning a good deal of our scrap, which we are,
2 of course, putting into a compactor, but up until 1975,
3 we were burning it so there wasn't really too much of
4 paper products going out. It was mostly broken bottles
5 and that type of thing.

6 Q Damaged stock?

7 A Yes.

8 Q What do you mean by that?

9 A Well, it would be material or packages that we had
10 damaged during the course of our operation; packaging
11 operations or it could be damaged stock returned by a
12 customer or perhaps it was damaged in our warehouse in
13 some manner or another where we have broken packages,
14 broken bottles or whatever.

15 Q What would those products consist of?

16 A Well, it could consist of any one of our product line
17 really.

18 Q Can you name your product line?

19 A Yes, pretty much, I can. We make Anacin, Dristan,
20 Preparation H suppositories, Preparation H ointment,
21 ~~Trendar~~ ^{Trendar} tablets, Primadine tablets, Bisodol tablets,
22 ~~Sleep-eze~~ ^{Sleep-eze} tablets. We make Heet linoment. We make
23 Infra-Rub, which is an anti-irritant. We make Neet lotion
24 and Neet cream. We make ~~Adendrex~~ ^{Derodex} Shampoo, Freezone,
25 Compound W, Outgrow, Ambasol. I think I've hit most of
them.

1 Q Freezone; what is that?

2 A Freezone is a corn remover.

3 Q Mr. Brandt, I show you what has been marked, Brandt
4 Deposition Exhibit No. 1 and ask you to examine that,
5 if you would, please.

6 A Yes.

7 Q Of all of the products that you have named, would that
8 listing cover all of the ingredients that would go into
9 those products?

10 A Well, I really can't tell you all of them, but it covers
11 most of it.

12 Q Is it likely that each of those items would be found in
13 the waste disposed of by Whitehall?

14 A Yes. I would say that's correct.

15 Q That list, in fact, was submitted to the State Department
16 of Health?

17 A Yes, it was.

18 Q When did you first have contact with Himco?

19 A I would think it was probably back in the area of 1965.
20 We have been doing business with Himco ever since I
21 came, approximately 20 years.

22 Q In 1967, '68 through 1976, did you know where Himco was
23 disposing of your waste?

24 A Yes.

25 Q Where was that?

*Brandt
Deposition
24 #1*

Whitehall Laboratories
Elkhart, Indiana

Aspirin	504.55 lbs.	Phenylephrine HCl
Caffeine	151.99 lbs.	Phenindamine Tartrate
Calcium Carbonate	17.67 lbs.	FMA-11
Magnesium Hydroxide	16.59 lbs.	Theophylline Hydrous
Ephedrine Hydrochloride	.30 lbs.	Methapyrilene Hydrochlor
Phenobarbital	.09 lbs.	Sodium Bicarbonate
Magnesium Carbonate	3.06 lbs.	Starch
Sterotex	1.79 lbs.	Di-Pac
Calcium Stearate	.02 lbs.	Sodium Saccharin
Lactose	1.29 lbs.	Peppermint Oil
Acetaminophen	15.65 lbs.	Pamabron
Sodium Lauryl Sulfate	.07 lbs.	Dried Aluminum Hydroxid
Sodium Carboxymethylcellulose	.39 lbs.	Propyl Parabin
Triethanolamine	.34 lbs.	Stearic Acid
Cetyl Alcohol	2.02 lbs.	Methyl Nicotinate
Oleoresin Capsicum	.04 lbs.	Histamine Dihydrochlori
Methyl Parabin	.01 lbs.	Oil of Lavender
Live Yeast Cell Derivative.	.59 lbs.	Shark Liver Oil
Phenylmercuric Nitrate	.003 lbs.	Scopolamine Hydrobromid
Salicylic Acid	1.45 lbs.	Methol Levo
Acetic Acid	1.13 lbs.	Camphor
Castor Oil	.23 lbs.	Acetone
Ether	4.87 lbs.	Netrocellulose Blend
Chalk	2.83 lbs.	Thioglycolic Acid
Calcium Hydroxide	1.42 lbs.	Sodium Silicate
Sodium Hydroxide	1.23 lbs.	Perfume Oils
Lemon Fragrance	.01 lbs.	Iron Oxide
Simethon	.01 lbs.	Mineral Oil
Promulgen	.92 lbs.	Sorbital
Paraffin	.27 lbs.	
Chloroform	.10 gal.	Methyl Salicylate
Alcohol SD-23A	.19 gal.	Coal Tar
Parachlorometaxyleneol	.01 gal.	Maprofix
Methocel	.03 gal.	Supermide
Iodine	.001 gal.	Glycerine
Alcohol 38A	.37 gal.	Benzocaine

1 A Was that off the Nappanee Street extention, off
2 California Road, north of Bristol Street?

3 Q All right, County Road 10 between County Road 10 and
4 the Nappanee extention.

5 A I really don't know, Mr. Herron. I know where it was
6 located.

7 Q Northwest corner of Elkhart?

8 A Yes.

9 Q Did you ever have an occasion to visit the Himco Dump?

10 A Yes.

11 Q On how many occasions?

12 A Not more than three. Probably three times.

13 Q Can you recall the first time?

14 A I can recall the first time. I can't recall the purpose
15 of it.

16 Q When was that?

17 A In the area of '65, '66, somewhere in there.

18 Q When you observed the Himco dump in 1965 or 1966, will
19 you describe what you saw?

20 A Well, it was a typical dump or landfill type of operation;
21 bulldozers working, trucks dumping refuse over an en-
22 bankment, and the tractors, the bulldozers coming along
23 pushing dirt over the top of it. That type of thing.

24 Q Did you observe any open water?

25 A Yes, as we were walking along the top of the bank at the

1 edge of the embankment there appeared to be water at
2 the bottom of this, yes.

3 Q Was it a swamp, in fact?

4 A Well, I don't know that I could define it that closely,
5 Mr. Herron. I saw water down there. Where it came
6 from, whether it was there permanently, it was there
7 the day I was there.

8 Q Was there dumping into that water?

9 A There was dumping over the embankment, yes.

10 Q And into the water?

11 A Well, I didn't see it go into the water, but I could
12 only assume it probably would, but I didn't see it.

13 Q Are you familiar with the location of the residences of
14 the plaintiffs in this cause, Rumfelt, Wiseman and
15 Kolanowski?

16 A No, I am not.

17 Q Do you know whose property this dumping was taking place?

18 A No, I do not.

19 Q When was the second time you visited the dump?

20 A Well, the second time I visited the dump, I believe was
21 in 1969.

22 Q What was the purpose of that visit?

23 A We had had some reports that there were some children in
24 one or two schools who evidently had possession of some
25 of our products, and we were told that they had picked it

1 up at this location; of this dumping location, and our
2 purpose in going out there was to observe how our
3 products were being handled, how our waste was being
4 handled and was it being covered properly as our
5 dealings with Himco called for.

6 Q On what basis did you deal with Himco?

7 A I don't think we ever had a written contract or
8 anything of that nature. It was just sort of a
9 continuing working arrangement that we had with them
10 that he hauled away all our refuse as we needed it
11 taken care of. I don't recall that there was a firm,
12 fixed contract or anything like that.

13 Q You did not have a written contract with them?

14 A Not to my knowledge.

15 Q On what basis did you pay them?

16 A A basis of so much a load. It would vary from time to
17 time.

18 Q Do you recall, Mr. Brandt, how you got word that
19 children at school had your products?

20 A I don't recall, Mr. Herron. I don't remember.

21 Q What did you observe at the dump when you were out there
22 in 1969?

23 A Well, again, you are testing my memory a little bit, but
24 as I recall, pretty well all of our stuff was covered
25 up. Now, they were at the time, I believe, handling some

1 of our materials and it was freshly dumped there that
2 particular day, but there was not a lot of our products
3 scattered all over the place. It was all in one location,
4 and to the best of my knowledge, the covering up
5 operation, they were preparing to do that at that point.

6 Q On that day when you were there, what of your products
7 did you observe?

8 A I don't remember.

9 Q Did you observe open water on that visit?

10 A That, I do not remember. I don't know.

11 Q You took certain photographs at that time, did you not?

12 A I believe we did.

13 Q Did you discuss the matter with Himco of your products
14 turning up in the schools?

15 A I believe we did because I think we indicated to them the
16 purpose of our visit; why we were there.

17 Q Could you recall what they said?

18 A No, I cannot.

19 Q Mr. Brandt, did you ever ask Himco to display to you a
20 permit to operate a dump or landfill?

21 A Not to my knowledge.

22 Q When you observed dumping into open water in 1965 or '66,
23 did you question that practice?

24 A First, let me say I didn't say I observed dumping in
25 open water.

1 Q All right, where dumping had been down over the
2 embankment to the edge of the water, and you assumed
3 that there had been dumping into the water?

4 A Yes, I did.

5 Q Did you question that practice?

6 A No, I did not.

7 Q And you do not recall if you observed any dumping or
8 previous dumping in water in 1969 when you were there?

9 A No, I don't remember seeing anything at that time.

10 Q Can you recall your next visit to the landfill?

11 A Frankly, I can't, Mr. Herron. I'm not sure of the dates
12 at all, and I don't remember whether actually I went
13 back again or not. As I said, I thought it was three
14 times, but it may have been only twice, and I'm not sure
15 of the third time.

16 Q Following your visit there in 1969, did you speak with
17 any school authorities regarding your product showing up
18 in the schools?

19 A I don't recall that I spoke directly to any school
20 authorities. I may have, but I don't recall.

21 Q Can you recall how that came to your attention?

22 A No. Frankly, I can't for sure. I just don't remember.

23 Q You have other waste disposal persons handle part of your
24 waste, do you not, other than Himco?

25 A No, at this time, we don't.

1 Q ~~_____~~

2 A ~~_____~~

3 ~~_____~~

4 ~~_____~~

5 ~~_____~~ I didn't

6 remember that, but it's a recent thing with us.

7 Q Are you familiar with the Indiana Stream Pollution
8 Control Board Regulation SPC(18)?

9 A No, I'm not.

10 Q Did you not receive a copy of that from the Elkhart
11 Chamber of Commerce?

12 A We may have, Mr. Herron. I wouldn't tie the numbers
13 together or that specific release you are talking about.

14 Q Did you know that it was required that a landfill be
15 licensed?

16 A No, I did not.

17 Q You never knew of that?

18 A No, I never knew of that.

19 Q And you, today, do not know that that is required?

20 A I've got to say that I don't know the details of that.

21 Q Did you receive correspondence through the Chamber of
22 Commerce, the Indiana State Board of Health regarding
23 the operation of landfills and the disposal of your
24 waste in October of 1975?

25 A I don't remember.

- 1 Q Following the complaints which you looked into in
2 1969 regarding the disposal of your waste, did you ever
3 look into it again?
- 4 A Over what period of time?
- 5 Q From 1969 through 1976.
- 6 A We looked into it in 1976, yes.
- 7 Q When this matter came up?
- 8 A Yes.
- 9 Q Is that correct?
- 10 A That is correct.
- 11 Q From 1969 until 1976, did you look into the manner in
12 which your waste was being disposed of, to your knowledge?
- 13 A We set up an inspection program. I don't remember the
14 date that it started, but we do have and have had for
15 some time an inspection program of the operation, yes.
- 16 Q Of the landfill?
- 17 A Yes.
- 18 Q Of the dump?
- 19 A Yes.
- 20 Q When did that start?
- 21 A I'm not sure. I don't remember, Mr. Herron.
- 22 Q Was it in 1976?
- 23 A I don't know. I don't remember just when it started.
24 I think it was 1976, but I can't say for sure.
- 25 Q So, very likely, from 1969 until 1976, you did not look

1 into it any further?

2 A I believe that to be correct, yes. I'll say one thing
3 that I might add to that that from time to time, we
4 would have some unusual amounts of material, perhaps
5 that we would wish to dispose of and we wanted to
6 be sure that it was disposed of and we would send one
7 of our quality control people out to insure that it was
8 covered up properly and so forth.

9 Q What kind of products would those be?

10 A It could have been any one of our finished products,
11 probably in most cases it was.

12 Q Finished products?

13 A Yes.

14 Q Would you have any records of those occasions?

15 A I don't think so.

16 Q Who, of your quality control people, would have handled
17 those matters?

18 A I think in most cases, it was Mr. Bell.

19 Q What is his full name?

20 A Mr. Jack Bell.

21 Q Is he still with you?

22 A Yes.

23 Q What would prompt you on such an occasion? What would be
24 the guidelines that would prompt you to send someone out
25 to see that it was disposed of?

1 A The guideline would be that we would want to be insured
2 that it was because the product would probably be
3 defective.

4 Q Defective in what respect?

5 A Well, it might have been contaminated.

6 Q And it went through the normal process of Himco taking
7 it and hauling it away?

8 A That's right.

9 Q And dumping it and then you wanting to make sure that it
10 was covered and so forth?

11 A That's right.

12 Q Contaminated in what way?

13 A Oh, it might have had, perhaps, dirt in it. We might
14 have had some contamination from a piece of machinery,
15 maybe bits of metal it picked up in a press or perhaps
16 it might have been a possibility of broken glass; any
17 number of things like that.

18 Q On how many occasions would that have occurred? Could
19 you make an estimate?

20 A No. I really wouldn't want to make an estimate. I
21 really don't know.

22 Q Mr. Brandt, were you familiar with a consent decree
23 entered into between Himco and the Indiana Stream
24 Pollution Control Board in 1975?

25 A No, sir. I wasn't aware of it, Mr. Herron.

1 Q I hand you a document which is titled Stipulated
2 Findings of Fact and Consent Decree. Have you ever
3 seen that document?

4 A I don't recall ever seeing it, Mr. Herron.

5 Q What was the last date, to your knowledge, that your
6 waste was dumped in the Himco landfill out on County
7 Road 10 and the Nappanee Street extention?

8 A I don't know. I don't recall.

9 Q As late as the Summer of 1976?

10 A It could have been, but I'm not sure when that operation
11 seized out there.

12 Q Was your waste dumped out there until the date that
13 operation seized and Himco went to their new landfill?

14 A I don't know.

15 Q Himco continued to handle all of your waste?

16 A Yes.

17 Q Through the closing of that landfill or the seizing of
18 the dumping there and starting at their new landfill?

19 A That's correct.

20 MR. HERRON: I believe that's all.

21 MRS. DAVIS: We'll waive signature.

22

23

24

25

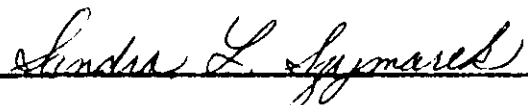
1 STATE OF INDIANA)
2) SS;
3 COUNTY OF ELKHART)

4 I, Sandra L. Szymarek, Official
5 Court Reporter in and for Elkhart County, State of Indiana,
6 do hereby certify that I conducted the examination of
7 Paul F. Brandt, the deponent in the foregoing deposition;
8 that prior to the taking of said deposition, the said
9 Paul F. Brandt was duly sworn to tell the truth, the
10 whole truth and nothing but the truth, that he was carefully
11 examined upon his oath; and his examination was reduced to
12 typewritten form by me and the foregoing 16 pages constitute
13 a true record of the testimony given by the aforesaid
14 witness.

15 I FURTHER CERTIFY that I am not
16 a relative, employee, attorney or counsel of any of the
17 parties or financially interested in the action.

18 I FURTHER CERTIFY that no
19 request was made that the foregoing deposition be submitted
20 to the said Paul F. Brandt for examination and correction
21 by him or that he sign the same.

22 IN WITNESS WHEREOF I have hereunto
23 set my hand this 14th day of March, 1978.

24
25 

Official Court Reporter

Sandra L. Szymarek
Certified Shorthand Reporter
1307 West Dunham Street
South Bend, Indiana 46619

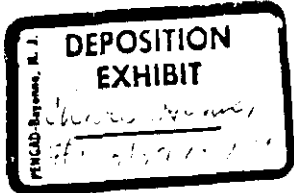
IN THE MATTER OF)

HIMCO WASTE-AWAY SERVICE, INC.)

RECEIVED

FEB 11 1975

STATE OF INDIANA
STREAM POLLUTION CONTROL
BOARD



STIPULATED FINDINGS OF FACT
AND CONSENT AGREEMENT

1. That the Stream Pollution Control Board of the State of Indiana is an agency of the State of Indiana duly empowered to hold administrative hearings to determine whether or not there have been violations of IC 1971, 13-7, and to enter an order requiring the taking of such action as is indicated by the circumstances to cause the abatement of such violations.
2. That the Stream Pollution Control Board has jurisdiction over both the subject matter and the parties to the action.
3. That on July 2, 1974, staff members of the Indiana Stream Pollution Control Board, notified Mr. Charles Himes, Jr., of Himco Waste-Away Service, Inc., by mail that the Himco refuse disposal operation should cease by December 31, 1974.
4. That a second letter, dated December 37, 1974, was sent to Mr. Himes granting an extension until March 7, 1975.
5. That the Himco Waste-Away Service, Inc., waives the right to notice of hearing and hearing before the Stream Pollution Control Board for the purpose of considering whether to approve this Stipulated Findings of Fact and Consent Agreement.
6. That the Himco Waste-Away Service, Inc., owns and operates a refuse disposal operation, hereafter known as Himco refuse disposal operation, consisting of approximately 21.75 acres in a part of the S1/2 of the NE1/4 of Sec. 36, T.38N., R4E., Cleveland Township, Elkhart County, Indiana.
7. That said refuse disposal operation may be in violation of IC 1971, 13-7-4-1(c) and (f), and IC 1971, 19-2-1-3 and 19-2-1-31 in the following particulars:
 - (a) That on or about May 13, 1974, six water wells were determined to have been contaminated, which con-

tamination may have been caused by leachate generated from the Himco refuse disposal operation,. Himco paid for the deepening of each such well and no reports of further contamination since said date have been received.

(b) That the practice of disposing of certain types of industrial and municipal wastes at the Himco refuse disposal operation has been determined to be a potential hazard in that contamination of the groundwater supply in this area may result due to the particular geological characteristics on site.

(c) That the Himco refuse disposal operation has not been approved by the Stream Pollution Control Board of the State Board of Health for the disposal of refuse.

8. That the efforts of Himco Waste-Away Service, Inc., to find and obtain necessary approvals for a new landfill site have not yet resulted in obtaining a new site for relocation of the Himco refuse disposal operation.

9. There is a substantial need in the Elkhart community for refuse disposal facilities.

10. Himco Waste-Away Service, Inc., should be given a reasonable period of time to effect a relocation of its refuse disposal operation site while continuing the present site in operation under specific restrictions, contingent upon Himco making reasonable and prompt progress toward the acquisition, approval and commencement of operation of a new site.

IT IS RECOMMENDED THAT THE STREAM POLLUTION CONTROL BOARD OF THE STATE OF INDIANA adopt the following consent agreement:

1. That the Himco Waste-Away Service may continue the Himco refuse disposal service operation at its present site until October 1, 1975, in accordance with the following conditions:

(a) That no municipal residential refuse, or any other wastes, which include garbage or other highly putrescible wastes, be disposed of on-site.

(b) That no hazardous wastes as defined in Chapter II, Section 19, of the Indiana Stream Pollution Control Board Regulation SPC 18 be deposited.

(c) That no refuse other than those materials defined by Chapter IX, Section 1, Stream Pollution Control Board Regulation SPC 18, be deposited in wet areas.

(d) That all acceptable refuse shall be deposited in a single area and compacted and covered with a minimum of

six inches of soil on the day such refuse is delivered to the site.

(e) That the calcium sulfate waste be deposited only in a dry area.

(f) That any calcium sulphate deposited in a separate area, away from other refuse, shall not be stacked on an interim basis more than six (6) feet above proposed finish grade; no more than two (2) acres of said deposit shall be exposed at any given time; and not less than one (1) foot thickness of impermeable soil shall be applied as a final cover over the calcium sulphate deposit.

(g) That appropriate dust control measures be undertaken to the satisfaction of the Elkhart County Health Unit.

2. That the Himco Waste-Away Service, Inc., report to the Stream Pollution Control Board the following information no later than the dates indicated below:

(a) March 1, 1975 - A plot plan, to include final land surface contours and other information as described in Chapter III, Section 4(d)(iii) of Stream Pollution Control Board Regulation SPC 18.

(b) April 15, 1975 - Submittal of a progress report to indicate three (3) or more potential sites for a new sanitary landfill operation; further to indicate that necessary hauling equipment has been ordered. At this time representatives of the Board will be instructed to perform preliminary site surveys of the reported sites.

(c) May 15, 1975 - Evidence of ownership or purchase options of one or more sites for which sanitary landfill plans are to be submitted.

(d) August 1, 1975 - Evidence of proper zoning for one (1) or more sites discussed in item (c) above.

(e) August 15, 1975 - Complete construction plan permit application for the new sanitary landfill, as discussed in items (c) and (d) above, according to Chapter III, Section 2, Stream Pollution Control Board Regulation SPC 18.

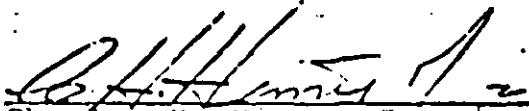
(f) September 25, 1975 - Evidence that necessary additional hauling equipment, if any is required, has been obtained.

3. In the event Himco Waste-Away Service, Inc., exercises due diligence in taking all steps necessary for relocating its refuse disposal operation but shall be delayed by circumstances beyond its reasonable control

(as, for example, if governmental decisions on zoning approval shall require more than normal processing time) the Technical Secretary of the Stream Pollution Control Board shall be authorized to grant such extensions of time for operation of the existing refuse disposal operation as may be necessary to compensate for such unavoidable delays.

4. If this Stipulated Findings of Fact and Consent Agreement is not approved and adopted by the Stream Pollution Control Board, the same shall not be admissible against Himco Waste-Away Service, Inc., in any proceeding.

I have reviewed the above Stipulated Findings of Fact and Consent Agreement and agree to and approve the same.



Charles H. James, Jr.
Himco Waste-Away Service, Inc.

I have reviewed the above Stipulated Findings of Fact and Consent Agreement and recommend that the Stream Pollution Control Board adopt the same as its Findings of Fact and Final Agreement.

Roland P. Dove, Director
Division of Sanitary Engineering

1 A I would say yes.

2 Q Is it true that you dumped waste of Elkhart General
3 Hospital in standing water?

4 A I do not know that.

5 Q Did you dump waste of Miles Laboratories in standing
6 water?

7 A I don't know that either, during that period of time.
8 Dry waste, paper, skids, pallets, this we were putting
9 into the wet areas, so that we could put the other waste
10 on top of that.

11 Q Did you sort out the waste as you dumped it?

12 A Be more specific, "sort out," you know, load by load?

13 Q Well, did you sort out?

14 A Yes.

15 Q Did you sort out Miles' waste from the other waste
16 so that you made sure you dumped the Miles waste in dry
17 area and ---?

18 A Okay. Yes. We would have directed those loads to
19 areas where it was dry.

20 Q But you did dump in open water?

21 MR. CHURCH: Are you referring since 1969?

22 MR. HERRON: During the period 1969 to September
23 of 1976 or October of 1976.

24 A Open water, no. Standing water, yes.

25 Q Where did you get the soil from, what you used for

1 cover in the dump?

2 A From the perimeter of the site, earth to the west--

3 or, to the east--to the west and to the north of it.

4 Q What kind of soil was it?

5 A Meaning what? Soil, you know, it was dirt.

6 Q Was it sand, was it clay, what was it?

7 A It was a sandy--it was sand. There was probably some

8 clay, sandy clay.

9 Q There was clay in it?

10 A In some areas there was. We dug through on the west

11 side of--yes. To answer your question, yes.

12 Q Where did you get clay soil?

13 A Okay. If any amount, would have been probably to the

14 east at one time. It was a hard pan. Only thing I can

15 recall is the toughness of digging through the soil.

16 Q When did you find that soil and when did you use that

17 as cover?

18 A I don't recall. It would have been, you know, late

19 sixties, early seventies.

20 Q Late sixties, early seventies?

21 A I am guessing.

22 Q Did you obtain copies of the well logs when you

23 drilled those six wells on the south side of the dump?

24 A Yes.

25 Q Isn't it a fact, Mr. Himes, that you don't find any clay

1 until you get to 165 feet or so?

2 A In that particular area, yes.

3 Q And isn't it a fact that the entire area is nothing
4 but sand and gravel?

5 A I don't know that.

6 MR. CHURCH: I believe he testified there was
7 clay.

8 Q Between the year 1969 and September or October of
9 1976 did you ever have an odor problem out at the dump?

10 A Yes.

11 Q Specifically what years did that exist?

12 A Can't tell you specifically the years. It would occur
13 most normally during the summertime. Odor problems to
14 what extent? I would have to ask you.

15 Q You answer my question. Did you enjoy the odor?

16 A Did it bother me? No.

17 Q I said did you enjoy the odor?

18 A No.

19 Q Was it obnoxious?

20 A No.

21 Q When you took calcium sulfate out there was it dry
22 or wet?

23 A Dry.

24 Q Was it dusty?

25 A No.

1 Q Did you create clouds of dust by your trucks running
2 in and out of the dump area?

3 A We were driving on a dirt road. Yes, there would be
4 dust.

5 Q As you filled in the areas with standing water, where
6 would that water go?

7 A I don't know. Most of it moved to the west end of
8 the swamp.

9 Q Did you ever flood the Wiseman's back yard?

10 A No.

11 Q Did you ever fill in the Wiseman's back yard for them
12 because it was flooded?

13 A We filled it in, yes.

14 Q Why did you fill it in?

15 A They asked us to.

16 Q Why did they ask you to?

17 A I don't know.

18 MR. CHURCH: Instruct him to answer only if he
19 knows.

20 Q Was it covered with water?

21 A I don't recall.

22 Q Did you take down some trees in the Wiseman back yard?

23 A Not to my knowledge.

24 MR. HERRON: That's all.

25 MR. CHURCH: I have no questions.

1 MR. GIANUNZIO: No.

2 CROSS EXAMINATION

3 BY MR. STEINBRONN:

4 Q Mr. Himes, just a couple questions about the relation-
5 ship between the Himes and Elkhart General Hospital. Did
6 you personally negotiate the hauling contracts with the
7 Elkhart General Hospital?

8 A Yes.

9 Q With whom did you negotiate during the period 1969
10 through 1976?

11 A No, I do not--what type--can I break your question in
12 two?

13 Q Yes, go ahead.

14 A In the latter part of '70, whenever Mr. Porter--I
15 do recall his name. I'm sure there was somebody prior
16 to that but I don't recall.

17 Q What, essentially, were the nature of the discussions
18 between Himco and Elkhart General regarding the hauling
19 of waste? What did the discussions involve?

20 A Methods, placement of, you know, container, number of
21 pickups, to the best of my knowledge.

22 Q Were there discussions as to types of waste that
23 Himco would dispose of?

24 A Yes.

25

1 Q And what did those discussions involve?

2 A Solid waste.

3 Q Were there special disposal problems with human-
4 tissue waste and contaminated waste?

5 A No. I was assured that that was not in there.

6 Q Did the Elkhart General Hospital make special disposal
7 arrangements for that type of waste?

8 A I do not know.

9 Q Was the Elkhart General Hospital advised from time to
10 time by you of where the solid waste was being disposed of?

11 A Can't answer that. I don't recall.

12 Q Was the Elkhart General Hospital in any way involved
13 in the consent agreement of 1975?

14 A No.

15 Q Did they participate in any of the discussions with
16 Himco, Miles Laboratories or the Indiana Stream Pollution
17 Control Board?

18 A Not to my knowledge.

19 Q Were they consulted at all by you regarding that
20 consent agreement before you executed it in February of
21 1975?

22 A Not to my knowledge.

23 MR. STEINBRONN: Okay. I have no further
24 questions.

25 MR. OBENCHAIN: That's all.

1 MRS. DAVIS: I have just two questions.

2
3 C R O S S E X A M I N A T I O N

4 BY MRS. DAVIS:

5 Q To your knowledge, Mr. Himes, was Whitehall contacted
6 by you prior to entering into the consent agreement in
7 1975?

8 A I don't recall.

9 Q Did they participate in the negotiations leading up
10 to the drafting of that consent agreement?

11 A To my knowledge, no.

12 MRS. DAVIS: I have no other questions.

13 MR. CHURCH: We'll waive signature.

14
15 FURTHER DEPONENT SAITH NOT

16
17 By agreement of the parties
18 signature of witness waived

19 X X X X X X
20
21
22
23
24
25

1 STATE OF INDIANA)
2) SS:
3 ST. JOSEPH COUNTY)

CERTIFICATE OF REPORTER

4 I, Marguerite Hutchinson, Registered Professional
5 Reporter and officer duly commissioned to administer oaths in
6 the state of Indiana, do hereby certify that the foregoing
7 deposition of Charles Howard Himes, Jr., was taken by agreement
8 of the parties as to the time and place, with written notice
9 being waived, on behalf of the plaintiffs, beginning at
10 3:35 P.M. (E.S.T.) on the 30th day of March, 1978, in a first
11 floor conference room of the Elkhart County Building, city of
12 Elkhart, county of Elkhart, state of Indiana; that the parties
13 were represented by counsel as heretofore noted; that said
14 witness was by me sworn according to law to testify the truth
15 and nothing but the truth before the beginning of his testimony;
16 that the testimony of said witness was by me taken down in steno-
17 type shorthand and typewritten under my supervision; and that
18 the signature of Mr. Himes, witness, to the foregoing deposi-
19 tion was waived by agreement of the parties.

20 I further certify that this is a true and correct
21 record of all the testimony given in the examination.

22 IN WITNESS WHEREOF I have hereunto set my hand and
23 affixed my notarial seal this _____ day of _____, 1978.

24 _____
25 Marguerite Hutchinson, RPR
My Commission expires Notary Public
July 7, 1979.

REDRESS (D. Kado)

Mr. J. D. Keiser

Aerosol Products Discarded

June 14, 1976

JUN 15 1976

Discontinue the practice of segregating AEROSOL CONTAINERS into separate drums. We discussed the practice with Charles Himes of Himco Waste Service who stated the products could be discarded and intermingled with other products.

J. D. Keiser

JDK:lc

cc: Mr. P. Brandt
Mr. C. Meyer
Mr. J. Bell
Mr. J. Breit

D. Kado

Mr. J. D. Kelser

Redress

June 10, 1976

JUN 10 1976

For the two weeks only of June 14 and June 21, keep an itemization of all redress materials sent to trash landfill.

Attached are Stability Room Sample Check List sheets which may be helpful in accounting for items discarded.

J. D. Kelser

JDK:lc

Attachment

cc: Mr. C. F. Meyer

~~Mr. J. A. Bell~~ Mr. P. Brandt —

Paul - today 6/10 - I discussed with you the discards from Line Inspection and agreed to next ten working days.

Jack

J. Bell
J. Keiser
L. Windecker
E. Ogle

Paul F. Brandt

Chemical Disposal

June 10, 1976

Gentlemen:

As per my verbal conversation with each of you, it is necessary for us to accumulate data on the quantitative amounts of various chemicals that we are disposing of via the Himco Waste Away Service.

In the case of the Packaging Department, I believe that the bulk of the scrap materials is coming off the packaging lines. In the laboratory area, we have the products being discarded by the lab checkers after their tests and also, a fairly large quantity of return goods being discarded by the Redress Department. In the Bulk area, I believe most of our discarded materials are coming from our Pangborne Dust Collectors.

I want you to keep a quantitative record of all of these materials over a consecutive 10 day period and starting not later than June 14. It is important that we get as accurate a record of this as possible and I would request that it be done on a day-to-day basis.

Paul F. Brandt

PFB:sem

cc: C. F. Meyer - E
J. F. Breit - E
R. J. Cosbey - E
A. Weaver - NY

See work sheet attached

*cc Merrill
arbo
3/2/77*

Mr. A. Weaver
New York

Paul F. Brandt
Elkhart

Himco Landfill Operation
Indiana State Board of Health

June 10, 1976

I had a telephone call from Mr. Oliver located in the Indianapolis office of the State Board of Health. He indicated that he was talking to me in regards to the complaints that had been registered against the Himco Waste Away Service and particularly their landfill operation.

He said that since we were one of the companies mentioned in the complaints being made as being guilty of discarding dangerous chemicals in the Himco Landfill operation, it would be necessary for us to furnish the State Health Board with a list of chemicals that we are discarding and also to furnish them with a quantitative figure for each of the chemicals so listed.

I explained to Mr. Oliver whereas we were knowledgeable of the chemicals being discarded, we did not, at this time, have a quantitative record that we could refer to. I indicated to him that we would set up a program to obtain this information as best we could. He asked if it would be possible for us to furnish this information to him by July 1, 1976. I told him that we would make every effort to comply with his request in this area.

I asked him to send me a letter specifically asking me for the information that he was asking for over the phone. He said that he would send this letter to me immediately. When I get the letter, I shall send you a copy for your records.

Paul F. Brandt

PFB:sem

Mr. A. Weaver
New York

P. F. Brandt
Elkhart

Waste Disppsal

June 1, 1976

Dear Art:

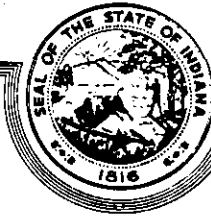
Attached are two articles which recently appeared in the Elkhart Truth which I am sending to you for your information.

Very truly yours,

PFB:sem

Att. (2)

STATE OF INDIANA



INDIANAPOLIS

STATE BOARD OF HEALTH

Address Reply to:
Indiana State Board of Health
1330 West Michigan Street
Indianapolis, IN 46206

May 21, 1976

MAY 24 1976

Mr. Charles E. Himes, Jr.
Himco Waste-Away Service, Inc.
707 North Wildwood Avenue
Elkhart, Indiana 46514

Dear Mr. Himes:

Re: Disposal of Medical Waste
Himco Waste-Away Inc.
Elkhart County

Recent inspections of your disposal site have revealed that you are accepting medical waste from Miles and Whitehall Laboratories. These chemicals need to be identified and approved if their land disposal is to be continued.

A detailed description of the chemical compounds is necessary. This description must contain a quantitative and qualitative analysis of all the chemicals you wish to dispose of in the landfill.

Please submit the above information within 15 days from receipt of this notice. The information will be reviewed to determine the potential hazards involved and special disposal criteria established if necessary.

Very truly yours,

David D. Lamm, Acting Chief
Solid Waste Management Section
Division of Sanitary Engineering
AC 317/633-6400

GO/nb

cc: Miles Laboratories
✓ Whitehall Laboratory
Elkhart County Health Department
Elkhart County Commissioners

XC HW
Jaw
3/3/77

cc A. Weaver
5/24/76



INTERNAL CORRESPONDENCE

TO FILE

FROM P. F. Brandt

SUBJECT WASTE DISPOSAL COMPLAINT

DATE April 22, 1976

On Tuesday, April 20, 1976, at approximately 2:30 p.m. I had a telephone call from a lady who said her name was Mrs. Rumpfelt; address County Rd. 10, telephone 264-3280. She was calling to inform me she was very upset about the fact that our products were indiscriminately being disposed of by Himco at their land fill operation. She claimed 1) that Himco was disposing of our waste material on property that did not belong to them; 2) that according to law, all "medicines" had to be crushed before they were put into a land fill operation; and 3) that the land fill operation was causing her water supply to be contaminated.

She conveyed to me during her conversation that she was thoroughly familiar with various people associated in one way or another with MACOG and the Environmental Committee connected with MACOG and also with the Indiana Pollution Control Board. She indicated that she was going to be in contact with these people and see to it that something was done to prevent Himco from operating at their location and see to it that he stop indiscriminately dumping our wastes at that location.

I conveyed to her we contracted out our waste disposal to Himco and that it was their responsibility to see to it that all of our wastes were properly covered as soon as it was possible for him to do so. As far as the ownership of the property involved was concerned, we certainly had no control over that situation and certainly we had no control over the problem of any water pollution problems. Our contract with Himco merely involves of his disposing of our wastes in such a manner that it could not be inadvertently picked up or used by anyone who might be trespassing on their property. I told her that if Himco was not fulfilling their responsibility to us, that we would be checking on this and insist on Himco fulfilling their obligation to us.

I indicated to her that we do have a concern for any pollution of any kind and that we feel it is important as a member of the Elkhart community that we continue to be good citizens and officials.

The following morning, Wednesday, April 21, at approximately 8:30 I talked to Mr. Charles Himes, of Himco and related to him my conversation with Mrs. Rumpfelt. I told him of all the charges that Mrs. Rumpfelt was making against them as I felt it would be important to him to know the details of what Mrs. Rumpfelt was saying. He told me that he was acquainted with Mrs. Rumpfelts and there had been problems in the past with her. He said that he had seen her in the land fill digging in the dirt and picking up various objects which he could not identify because he was too far away from her location. He assured me that they were properly disposing of our wastes and invited our inspection of the land fill operation at any time. He did not address himself to Mrs. Rumpfelt's charges of disposing on someone else's property or that they were causing a water pollution problem.

I emphasized to him his responsibility to us in the proper disposal of our waste materials and that we obviously wanted to avoid any bad publicity and that it was his responsibility to see to it that we are protected.

I have now set up with Joe Breit a program of inspection whereby he will, at least once every 3 month period, visit the Himco land fill operation and give me a written report on the conditions that he finds there. If he finds that Himco is not fulfilling their obligation to us, I shall immediately take up the matter with Himco to get any violations corrected.


Paul F. Brandt

PFB:sem

cc: A. Weaver

xc. Ato
3/7/77
✓
Jew

**INTERNAL CORRESPONDENCE**

TO Paul F. Brandt **FROM** Louis E. Windecker
SUBJECT Raw Material Dust **DATE** June 29, 1976

JUN 29 1976

The following Dust was collected and weighed as outlined below for ten working days from June 10 through June 23 on a two-shift basis.

Dust Collection System for:

Anacin Compressing Mix/Anacin Tablets 4,543 lbs.

Aspirin	3679.83 lbs.
Caffeine	286.22 lbs.
Starch	576.95 lbs.

Link Belt System 2,324 lbs.

Caffeine	1045.80 lbs.
Starch	1278.20 lbs.

Slugging Room/Low Volume 210 lbs.

FMA-11	140.62 lbs.
Caffeine	33.20 lbs.
Starch	21.48 lbs.
Sterotex	14.70 lbs.

Granulators/Dough Mixers 311 lbs.

FMA-11	223.92 lbs.
Starch	34.21 lbs.
Caffeine	52.87 lbs.
F.D.C. Yellow #5	Trace

Bisodol Room 101 lbs.

Starch	18.19 lbs.
Magnesium Hydroxide	32.73 lbs.
Calcium Carbonate	35.70 lbs.
Dipac (Sugar)	14.14 lbs.
Calcium Stearate	0.18 lbs.
Sodium Saccharin	0.06 lbs.

June 29, 1976

Dristan Room

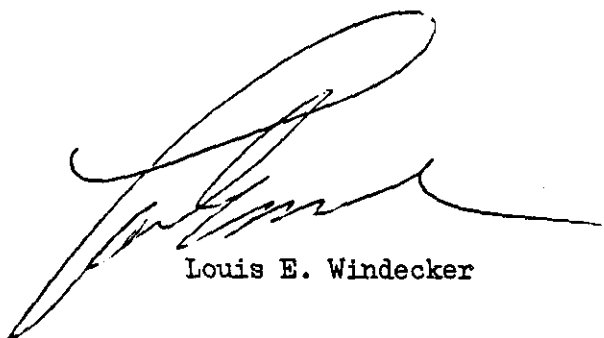
255 lbs.

Lactose	12.85 lbs.
Aspirin	153.78 lbs.
Starch	39.98 lbs.
Sterotex	3.22 lbs.
F.D.C. Yellow #5	Trace
Phenindamine	4.79 lbs.
Phenylephrine	2.39 lbs.
FMA-11	30.73 lbs.
Caffeine	7.26 lbs.

BULK TOTALS - (DUST COLLECTED)

7,744 lbs.

Aspirin	3833.61 lbs.✓
Caffeine	1425.35 lbs.✓
Starch	1969.01 lbs.✓
FMA-11	395.27 lbs.✓
F.D.C. Yellow #5	Trace
Sterotex	17.92 lbs.✓
Magnesium Hydroxide	32.73 lbs.✓
Calcium Carbonate	35.70 lbs.✓
Di-pac (Sugar)	14.14 lbs.✓
Calcium Stearate	0.18 lbs.✓
Sodium Saccharin	0.06 lbs.✓
Lactose	12.85 lbs.✓
Phenindamine	4.79 lbs.✓
Phenylephrine	2.39 lbs.✓


Louis E. Windecker

LEW:sjm



INTERNAL CORRESPONDENCE

TO Paul F. Brandt✓

FROM Edward B. Ogle

SUBJECT Destroyed Bulk

DATE June 28, 1976

We have destroyed the following Bulk items in the compactor over the past two weeks:

✓ Dristan Tablets (990.32)	37 lbs. = 29,206 ✓
✓ Denorex Gel	100 lbs.
✓ Compound W	88 lbs.
✓ Kolynos Superwhite	105 lbs.
✓ Prep H Ointment	65 lbs.
✓ Regular Neet Cream	95 lbs.
✓ Denorex Liquid	4 lbs.
✓ Primatene P Tablets (2212.47)	16 lbs. = 35,400 ✓
✓ Anacin Tablets (321.05)	519 lbs. = 478,026 ✓
✓ Sleep-Eze Tablets (272.2)	29 lbs. = 28,194 ✓
✓ Neet Lemon Lotion	121 lbs.
✓ Prep H Suppositories	5 1/2 lbs.
✓ Bisodol Tablets (823.53)	341 lbs. = 280,854 ✓
✓ Bisodol Powder	45 lbs.
✓ Infrarub	250 lbs.
✓ Anbesol	24 lbs.
✓ Heet Bulk	7 lbs.

Sincerely,

EBO:sjm

7.70 grams lb.

grain/lb

÷ 7,000 lb = 6 2" = 6

10/11 =

Spec Grav. X 8.337 = 6 2"

Products discarded by Lab Checkers
after inspection.

6/23/76

The following list represents a quantitative record of the total dozens discarded for both first and second shifts over a 10 day period. June 9, 10, 11 ; June 14, 15, 16, 17, 18 ; June 21, 22

	<u>Dozens</u>	<u>Units</u>	
Anacin 100's -	104	$1248 \times 100 = 124,800$	702,800
Anacin 200's -	24	$288 \times = 57,600$	
BiSodal 100's -	$24 \frac{1}{2}$	$292 \times 100 = 29,200$	
Prematone M 24's -	12	$144 \times 24 = 3,456$	
Prematone P 24's -	33	$396 \times 24 = 9,504$	
Suppositories 12's -	13	$156 \times 12 = 1,872$	28,656
Suppositories 24's -	15	$180 \times 24 = 4,320$	
Suppositories 48's -	39	$468 \times 48 = 22,464$	
Prep H Dent. 1oz -	$6 \frac{1}{2}$	$76 \times = 76 \text{ oz.}$	
Sleepage 26's -	$10 \frac{1}{2}$	$124 \times 26 = 3,224$	
Oristan 24's -	$9 \frac{1}{2}$	$112 \times 24 = 2,688$	
Kolyms Supercute 3oz -	$1 \frac{1}{2}$	$20 \times 3 \text{ oz} = 60 \text{ oz.}$	7
Neet Cream Reg. 2oz -	$3 \frac{1}{2}$	$40 \times 2 \text{ oz} = 80 \text{ oz.}$	"
Neet Demonstration 4oz -	$\frac{1}{2}$	$6 \times 4 \text{ oz} = 24 \text{ oz.}$	

11 items

10 recorded

1 - Kolyms

J. Bell

Items thrown away from ~~July~~ 14 to June 25, 1976

TOTAL

Oristan Solid ⁶² —	9 $\frac{1}{12}$ dz	30 $\frac{6}{12}$ dz	2196 oz
Oristan Caps - 6's —	1 $\frac{1}{12}$ dz	234 3 $\frac{3}{12}$ dz	
Oristan .. 10's —	5 $\frac{6}{12}$ dz	1270 10 $\frac{7}{12}$ dz	
" " 15's —	7 $\frac{7}{12}$ dz	100 1 dz	Caps 1684.
Oristan ^{Gran} Vapor Spray ^{tg} —	5 dz	4 7 $\frac{4}{12}$ dz	
" " " 1oz —	3 $\frac{5}{12}$ dz	5 5 $\frac{4}{12}$ dz	408 oz
Oristan Room Vaporizer —	1 $\frac{1}{2}$ dz	115 9 $\frac{9}{12}$ dz	
Nut aerosol 3.5g —	2 $\frac{1}{12}$ dz 8 $\frac{4}{12}$ dz	209 14 $\frac{6}{12}$ dz	
" " 7oz —	2 $\frac{7}{12}$ dz	20 8 $\frac{7}{12}$ dz	1540 oz.
^{Red} Nasal Spray - $\frac{1}{2}$ g —	18 $\frac{3}{12}$	115 30 $\frac{3}{12}$ dz	342.5
" " 1g —	4 dz	10 13 $\frac{5}{12}$ dz	
C can —	3 $\frac{9}{12}$ dz	6 $\frac{7}{12}$ dz	
APF - 175's —	2 $\frac{2}{12}$ dz	100 525 $\frac{7}{12}$ dz	(525)
Momentum —	2 $\frac{6}{12}$ dz	90 236 11 $\frac{9}{12}$ dz	
Oristan Inhaler —	9 dz	222 18 $\frac{6}{12}$ dz	
Sudden Beauty ^{16oz} Unsec. —	6 $\frac{6}{12}$ dz	7 $\frac{4}{12}$ dz	144 oz.
" " ^{12oz} Unsec. —	1 $\frac{1}{12}$ dz	4 $\frac{4}{12}$ dz	
" " ^{16oz} Reg. —	1 $\frac{7}{12}$ dz	2 $\frac{5}{12}$ dz	1856 oz
" " ^{12oz} Reg. —	1 $\frac{5}{12}$ dz	9 $\frac{8}{12}$ dz	
" " Super Hold ^{16oz} —	3 $\frac{10}{12}$ dz	4 $\frac{8}{12}$ dz	1616 oz.
" " ^{12oz} —	2 $\frac{11}{12}$ dz	5 dz	
APF 40's —	1 $\frac{2}{12}$ dz	840 1 $\frac{9}{12}$ dz	(454)
" 100's —	2 $\frac{4}{12}$ dz	370 3 $\frac{1}{12}$ dz	
Ant Spray ^{5oz} —	2 $\frac{7}{12}$ dz	7 6 $\frac{4}{12}$ dz	380 oz.
Bronitin 50's —	3 $\frac{3}{12}$ dz	100 3 $\frac{3}{12}$ dz	1104
" 15's —	5 $\frac{5}{12}$ dz	90 4 $\frac{5}{12}$ dz	
Bisodol + 24's —	2 $\frac{2}{12}$ dz	7 $\frac{7}{12}$ dz	168 oz.

Gift AFF 27297 tub.

AFF - Extra strength 245
 Neet Aerosol Lemon 10g — 11 $\frac{2}{12}$ dy
 " " " 3.5g — 10 $\frac{6}{12}$ dy
 Momentum - 100's — 1 $\frac{6}{12}$ dy
~~Front wheel~~ 12's —
 " " " — ~~11 $\frac{6}{12}$ dy~~
 Solapum — 11 $\frac{8}{12}$ dy
 Petro-Sylum 16" — 2 $\frac{1}{12}$ dy
 Heather 62 — 1 $\frac{7}{12}$ dy
 Infaub Foam 62 — 1 $\frac{5}{12}$ dy
 Clear & Dry 20" — 4 $\frac{12}{12}$ dy
 10²⁰⁻⁴⁰ new formulated — 8 $\frac{12}{12}$ dy
 Neet Aerosol Lemon 20's — 9 $\frac{12}{12}$ dy
 Unioneed 40's — 2 dy
 " " " — 1 dy
 To Cur 4250
 Sudden Beauty Non Aerosol 800
 " " " Purse size 12
 Dinepiper 18's
 System Shampoo
 Heather Range -
 Kriphin 50's
 Sample Bottles Compound W 50g
 Q wet World 12's
 " 12" + 16" 30's
 Sudden Beauty Super Protein

21432 74 $\frac{2}{12}$ dy
 ✓ 1,648.5oz (12 $\frac{7}{12}$ dy)
 1,800 ✓ 1 $\frac{2}{12}$ dy
 288oz ✓ 2 $\frac{1}{12}$ dy
 150oz ✓ 2 $\frac{1}{12}$ dy
 174oz ✓ 2 $\frac{5}{12}$ dy
 10oz ✓ 5 $\frac{12}{12}$ dy
 " " 11 $\frac{12}{12}$ dy
 72oz ✓ 1 dy
 1560 ✓ 2 $\frac{12}{12}$ dy
 2dy
 3 $\frac{5}{12}$ dy
 4 $\frac{12}{12}$ dy
 18oz ✓ 1 $\frac{12}{12}$ dy
 18 ✓ 1 dy
 5 $\frac{12}{12}$ dy
 8 $\frac{12}{12}$ dy
 100 ✓ 2 $\frac{12}{12}$ dy
 205oz ✓ 3 $\frac{5}{12}$ dy
 3912 ✓ (12 dy)
 1 $\frac{12}{12}$ dy
 8 $\frac{12}{12}$ dy

December 18, 1974

To Whom it may concern:

Subject: Permanent disposal of Whitehall material. (*Preparation H
Department*)

Two loads of material buried per instructions of
Mr. Super of Whitehall Laboratories Inc.

Completed and inspected by,

Jack Bell

Himco Waste_Away Service Inc.

Alfred H. Hefner
Dispatcher.

5/4/89

~~XC-2-11~~

Paul F. Brandt

Edward B. Ogle

Destroyed Bulk

June 28, 1976

We have destroyed the following Bulk items in the compactor over the past two weeks:

Dristan Tablets	37 lbs.
Demorex Gel	100 lbs.
Compound W	88 lbs.
Kolynos Superwhite	105 lbs.
Prep H Ointment	65 lbs.
Regular Neet Cream	95 lbs.
Demorex Liquid	4 lbs.
Primatene P Tablets	16 lbs.
Anacin Tablets	519 lbs.
Sleep-Eze Tablets	29 lbs.
Neet Lemon Lotion	121 lbs.
Prep H Suppositories	5 1/2 lbs.
Bisodol Tablets	341 lbs.
Bisodol Powder	45 lbs.
Infrarub	250 lbs.
Anbesol	24 lbs.
Neet Bulk	7 lbs.

Sincerely,

EBO:bjm

August 8, 1974

Indiana State Board of Health
Air Pollution Control Division
1330 West Michigan Street
Indianapolis, Indiana 46206

Attention: Mr. Ronald Watson

Dear Mr. Watson:

In reference to the report submitted to your office in August, 1973 and subsequent verbal conversations, we have had concerning additional information required, we wish to make the following additions to our original report.

Drawing Nos. 422-B, 231-C, 218-C, 140-C, 141-C, 136-C, 142-C, 143-C, 262-B, 263-C, 264-C, and 265-C.

These drawings went out with the original report but obviously since your office did not receive them, they were lost somewhere during transmission.

Referring "Air Pollution Control Process Information Forms", No. 1A through C1, please add the following additional information.

PORT FROM PROCESS COLLECTED IN PANORAMA

Identification	Process	Lbs. Per Hour
----------------	---------	---------------

1A - Pg. 5	Amesin Tablets	10. lbs.
2A - Pg. 5	Amesin - Model Tablets	5.8 lbs.
3A - Pg. 5	Tablet Compressing Mix - Compressed Tablets	4.1 lbs.
4A - Pg. 5	Hydram Tablets	10. lbs.
5A - Pg. 5	Hydram Tablets	10. lbs.
6A - Pg. 5	Tablet Compressions (Not Process)	1. lb.
7A - Pg. 5	Compressed Tablets - Low Quantity per Production Run	5. lbs.
9A - Pg. 5	Model Powder	10. lbs.

PORT FROM PROCESS COLLECTED IN CARTON DAY

Identification	Process	Lbs. Per Hour
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PORT FROM PROCESS COLLECTED IN CYCLONES

Identification	Process	Lbs. Per Hour
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AlP Pollution Control Div.
Mr. Nease

-2-

August 6, 1974

DUST FROM PROCESS COLLECTED IN DRYERS

MP - Pg. 5	Tablet Granulation (Wet Process)	10.	lbs.
MG - Pg. 5	Tablet Granulation (Wet Process)	10.	lbs.

DUST FROM PROCESS COLLECTED IN HOFFMAN

CI - Pg. 5	Industrial Vacuum system for in Plant Cleaning	5.	lbs.
C2 - Pg. 5	Industrial Vacuum system for in Plant Cleaning	10.	lbs.

During the course of our various conversations, you indicated to us that we possibly have a problem with our industrial operation, since it does not have the required equipment to be in compliance. The economies of various alternatives are being studied and a decision is expected in the near future. Implementation of the decision reached will proceed as rapidly as possible.

If you need any additional information, please do not hesitate to call on us.

Yours truly,

WITTENALL LABORATORIES

Paul P. Brault
Assistant Vice President

PTB:sm

Enc.

Enc: R. P. Brault - RT
R. E. Keltzman - RT
R. E. Gault, EIR.
J. P. Brault - EIR.

g. L. Orr
Assistant

CC

Boiler

Exhaustive

Paul Keppring

May 78
APC-19

STATE OF INDIANA) IN THE KOSCIUSKO CIRCUIT COURT
) SS:
COUNTY OF KOSCIUSKO)

HERMAN C. RUMFELT and :
PATRICIA C. RUMFELT, :
 : Plaintiffs, :
 : vs. :
CHARLES H. HIMES and GRACE :
HIMES, Husband and Wife, et al, :
 : Defendants. :

CAUSE NO. C-76-484

JAMES K. KOLANOWSKI and :
HELEN J. KOLANOWSKI, :
 : Plaintiffs, :
 : vs. :
CHARLES H. HIMES and GRACE :
HIMES, Husband and Wife, et al, :
 : Defendants. :

CAUSE NO. C-76-483

WARREN S. WISEMAN and :
PATRICIA A. WISEMAN, :
 : Plaintiffs, :
 : vs. :
CHARLES H. HIMES and GRACE :
HIMES, Husband and Wife, et al, :
 : Defendants. :

CAUSE NO. C-76-482

NOTICE OF FILING DEPOSITION

TO: MR. W. RICHARD HERRON
301 West Franklin Street
Elkhart, Indiana 46514

MR. ROLAND OBENCHAIN
1800 American National Bank Bldg.
South Bend, Indiana 46601

MR. GEOFFREY K. CHURCH
St. Joseph Valley Bank &
Trust Company
Elkhart, Indiana 46514

Mr. Michael Gianunzio
House Counsel
Miles Laboratories, Inc.
Elkhart, Indiana 46514

MR. RICHARD E. STEINBRONN
305 First National Bank Bldg.
Elkhart, Indiana 46514

Mrs. Mary E. Davis
317 West High Street
Elkhart, Indiana 46514

Please take notice that the deposition of Charles Howard Himes, Jr., heretofore taken on behalf of the plaintiffs in the above-entitled causes of action, on the 30th day of March, 1978, was filed with the Clerk of the Kosciusko Circuit Court, Kosciusko County Courthouse, Warsaw, Indiana, on the 20th day of April 1978, by mailing the original thereof to said Clerk and depositing the same in the United States mail, postage prepaid.

Marguerite Hutchinson
Marguerite Hutchinson
Registered Professional Reporter

1 STATE OF INDIANA) IN THE KOSCIUSKO CIRCUIT COURT
2) SS:
COUNTY OF KOSCIUSKO)

3 -----
4 HERMAN C. RUMFELT and :
5 PATRICIA C. RUMFELT, :
6 Plaintiffs, :
7 vs. : CAUSE NO. C-76-484
8 CHARLES H. HIMES and GRACE :
9 HIMES, Husband and Wife, et al, :
10 Defendants. :
11 -----
12

13 -----
14 JAMES K. KOLANOWSKI and :
15 HELEN J. KOLANOWSKI, :
16 Plaintiffs, :
17 vs. : CAUSE NO. C-76-483
18 CHARLES H. HIMES and GRACE :
19 HIMES, Husband and Wife, et al, :
20 Defendants. :
21 -----
22

23 -----
24 WARREN S. WISEMAN and :
25 PATRICIA A. WISEMAN, :
Plaintiffs, :
vs. : CAUSE NO. C-76-482
CHARLES H. HIMES and GRACE :
HIMES, Husband and Wife, et al, :
Defendants. :

18 DEPOSITION of CHARLES HOWARD HIMES, JR., taken by
19 agreement of the parties as to the time and place, with
20 written notice being waived, on behalf of the plaintiffs in
21 the above-entitled causes of action, before Marguerite
22 Hutchinson, Registered Professional Reporter and officer duly
23 commissioned to administer oaths in the state of Indiana,
24 beginning at 3:35 P.M. (E.S.T.) on the 30th day of March,
25 1978, in a conference room on the main floor of the Elkhart
County Building, city of Elkhart, county of Elkhart, state
of Indiana.

MARGUERITE HUTCHINSON
Registered Professional Reporter
227 South Ironwood Drive
South Bend, Indiana 46615

APPEARANCES

On behalf of the plaintiffs:

W. RICHARD HERRON
301 West Franklin Street
Elkhart, Indiana 46514

On behalf of the defendants Charles H. Himes and
Grace Himes, Husband and Wife, and Himco Waste Away
Service, Inc.:

GEOFFREY K. CHURCH
Church, Mateiver, Warrick & Weaver
St. Joseph Valley Bank & Trust Company
Elkhart, Indiana 46514

On behalf of the defendants CLD Corporation and
Elkhart General Hospital, Inc.:

Richard E. Steinbronn
Thornburg, McGill, Deahl, Harman,
Carey & Murray
305 First National Bank Building
Elkhart, Indiana 46514

On behalf of Miles Laboratories, Inc.:

ROLAND OBENCHAIN
Jones, Obenchain, Johnson, Ford,
Pankow & Lewis
1800 American National Bank Building
South Bend, Indiana 46601

and

MICHAEL GIANUNZIO
House Counsel
Miles Laboratories, Inc.
Elkhart, Indiana 46514

On behalf of Whitehall Laboratories:

MARY E. DAVIS
Spahn, Atwater & Arko
317 West High Street
Elkhart, Indiana 46514

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I N D E X

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DIRECT EXAMINATION

By Mr. Herron 3

CROSS EXAMINATION

By Mr. Steinbronn 35

By Mrs. Davis 37

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E X H I B I T S

Page

Charles Himes Deposition Exhibits
Nos. 1 and 2 marked for identification

18

1 C H A R L E S H O W A R D H I M E S, J R.
2 called as a witness on behalf of the plaintiffs, having
3 been first duly sworn upon his oath to tell the truth,
4 the whole truth, and nothing but the truth, was examined
5 and testified as follows:

6 D I R E C T E X A M I N A T I O N

7 BY MR. HERRON:

8 Q Will you state your name, please?

9 A Charles Howard Himes, Jr.

10 Q Where do you live?

11 A 1429 Strong Avenue, Elkhart.

12 Q What is your age?

13 A Thirty-nine.

14 Q What is your social security number?

15 A 306-38-4724.

16 Q Will you outline your education, Mr. Himes?

17 A Education from high school on?

18 Q Yes.

19 A I have a B.S. in business administration from Indiana
20 University.

21 Q When did you receive that degree?

22 A Spring of '61, 1961.

23 Q In your undergraduate study did you take any courses
24 in geology?

25 A No, sir.

1 Q Did you take any courses in landfill management?

2 A No.

3 Q Have you, since receiving your baccalaureate degree
4 had any further training in the form of seminars or
5 institutes?

6 A Yes, I have.

7 Q What did those pertain to?

8 A In the landfill area are you speaking of?

9 Q In any area.

10 A In any area?

11 Well, business administration, some accounting,
12 maintenance of equipment, some on landfills and waste
13 disposal, Industrial Trade Association seminars.

14 Q Specifically what seminars have you had in landfill
15 management and when?

16 A Okay. I had one out of the University of Wisconsin,
17 I'd have to say approximately 1973--'72, '73, I'm not
18 sure on the exact date. The Trade Association in their
19 yearly meetings I have attended various seminars there.
20 I couldn't give you the dates because--it's a yearly,
21 you know ---.

22 Q Describe the course that you took sponsored by the
23 University of Wisconsin.

24 A Okay. The one by the University of Wisconsin was the
25 setting up of landfills. It would be more on the preliminary

1 studies to acquire a landfill. More on that than on the
2 operational part of the landfill.

3 Q How long did that course take?

4 A I think it was a day or two-day course.

5 Q All right. The seminars that you say that you have
6 attended, Trade Association seminars, when was the first
7 one of those that you attended and where was it?

8 MR. CHURCH: Any specific topic or just trade
9 association seminars?

10 MR. HERRON: On landfill management.

11 A Okay. I would go back to maybe 1971, and here again,
12 you know, I'm guessing at it. Possibly Chicago--Chicago,
13 Illinois.

14 Q What did that seminar consist of?

15 A I don't recall in any detail.

16 Q What was the general subject of it?

17 A I would say possibly the landfill management, but
18 again it's too far back to remember details as to what
19 the course was about, and again this was possibly a two-
20 hour, three-hour program.

21 Q Where are you employed?

22 A Himco Waste Away Service.

23 Q What is your position there?

24 A Vice-president.

25 Q How long have you been employed by Himco?

1 A 1964 on.

2 Q What was your title when you were employed there in
3 1964?

4 A I would say more on the manager basis at that time.
5 I don't think the corporation title "vice-president" was
6 effective until somewhere in '66. It's a small business,
7 so titles are meaningless to us.

8 Q What were your duties in 1964?

9 A 1964? It varied from truck driving to managing people.
10 Again, It's a small business and flexibility.

11 Q When was Himco Waste Away Service, Inc., incorporated?

12 A I believe 1966.

13 Q When you went to work there in 1964 who else was
14 employed in management?

15 A As far as the management of it, it would have been my
16 father, Mr. Himes, Sr.

17 Q How long did you serve in the capacity as a truck
18 driver?

19 A That could have been, you know, off and on for a
20 couple of years. Hard to say because there's days I
21 still do it.

22 Q You just did then and do now anything and everything
23 that has to be done?

24 A That's correct.

25 Q What is the business address of Himco Waste Away

1 service, Inc.?

2 A 77 Wildwood Avenue.

3 Q Who are all of the directors of Himco Waste Away
4 Service, Inc.?

5 A Charles Himes, Sr., Grace Himes, Stephen Himes,
6 Charles Himes, Jr.

7 Q Who are all of the officers of Himco Waste Away
8 Service, Inc.?

9 A Same people.

10 Q What capacity does Charles Himes, Sr., serve?

11 A He is president of the corporation.

12 Q And what capacity does Grace Himes serve?

13 A Secretary.

14 Q And what capacity does Steve serve?

15 A Treasurer.

16 Q Who are the owners of the capital stock of Himco Waste
17 Away Service, Inc.?

18 A Same.

19 MR. CHURCH: I object.

20 He answered it.

21 Q The same four people?

22 A Yes, sir.

23 Q The stock is entirely held within the four members of
24 the family?

25 A Yes.

Q Where does Himco Waste Away Service, Inc., dispose of the waste that it picks up now?

A County Road 26 between 7 and 9.

Q What is the name of that location? Is it a separate business?

A Yes.

Q What is it called?

A Earth Movers, Inc.

Q When was the location on County Road 26 opened?

A I believe September 1976--I believe.

Q All right.

A '76? That sounds right to me.

Q Where did Himco Waste Away Service, Inc., dispose of the waste that it picked up prior to the opening of that new location on County Road 26?

A On County Road 10.

Q County Road 10 at its intersection with ---

A (Interrupting) ---Nappanee street extension.

Q Nappanee street extension. Okay.

When was the dump at County Road 10 opened?

A Prior to 1960. It might have been '59, '60, '61.

I'm not exact on those dates, it's too far back to recall.

Q Himco was using that dump site then at the time you were employed there, is that correct?

A That's correct.

Q You were familiar with it, though, at the time that it was opened, were you not?

A Vaguely. The fact that I was in school at that time-- yes, I was familiar with it.

Q Did you work at the business any at all when you were in high school?

A Yes.

Q When did you first start working for Himco or for your dad in this business?

A Okay. In this business, 1957.

Q Was the dump location at County Road 10 open while you were away in college?

A Yes.

Q How many acres does the dump cover now at this time?

A I'm guessing, twenty-eight, maybe thirty acres.

Q How much of that is owned by Charles Himes and Grace Himes?

A I'm not sure. If you want a guess--does that satisfy you, on a guess?

Q If it's your best knowledge.

A My best guess is maybe thirteen to eighteen acres.

Q Do you know who owns the balance of the land that dump covers?

A I can only assume Coopers and the Miles.

Q Do you know of any lease agreements or lease arrangements

1 between Himco and LCD Corporation and Miles for the use
2 of that land?

3 A No.

4 Q Have you, since you have been in the business,
5 participated in the negotiation of any lease agreements
6 or lease arrangements for the use of that land?

7 A No.

8 Q What is the arrangement between Himco and LCD
9 Corporation as to the use of that land that is under the
10 dump?

11 A It's a verbal agreement to fill that portion that
12 was low-lying ground.

13 Q What is the arrangement with Miles Laboratories as
14 to the land owned by Miles Laboratories?

15 A Basically the same.

16 Q Will you describe as best you can the topography of
17 the land that dump is now located before or at the time
18 the dump was opened?

19 A Some of it was farm ground, tapering off into a low,
20 marshy area. It was sometimes wet, based on the time of
21 the year.

22 Q Was there not a rather large body of water there?

23 A Define "body of water" because it was a marsh or
24 swamp area that at times, yes, there was water but there
25 were times the ground was dry.

1 Q At certain times of the year did it look like a lake?

2 A No, not really. I wouldn't have thought of that to
3 be like a lake. I would have thought of it to be like a
4 marsh.

5 Q Do you know what preparations were made for opening
6 the dump there?

7 A No, I don't.

8 Q How old were you at that time?

9 A Nineteen, twenty, twenty-one.

10 Q And you were not in the city of Elkhart at that time?

11 A I may have been on, you know, summertime vacation.

12 Q Did you work for the business in the summer?

13 A Yes.

14 Q You don't know what preparations were made, if any,
15 then, to open it?

16 A Define "preparations" to me.

17 Q All right. Were there any soil samples taken to
18 determine the suitability of the location as a dump?

19 A I do not know.

20 Q Were there any permits obtained at that time to open
21 the dump, to your knowledge?

22 A Not to my knowledge.

23 Q Has there ever been a permit obtained to maintain a
24 dump at that location?

25 A Yes, from the City of Elkhart.

1 Q When was that?

2 A I'm not sure of the date. Could have been late
3 sixties, early seventies. I don't know for sure the
4 date of it.

5 Q Who was that permit issued by?

6 A I would assume the City of Elkhart Building Department
7 or whoever would have had it. By name I do not know.

8 Q What year was that permit issued?

9 A Again I don't know. It was late sixties, early
10 seventies. I don't recall the exact date.

11 Q Was there ever a permit obtained from the State of
12 Indiana, the Indiana State Department of Health?

13 A No, not to my knowledge.

14 Q Mr. Himes, do you recall a Motion for Production of
15 Evidence which was filed in this cause several months ago?

16 A Yes.

17 Q That Motion for Production requested production of
18 any permits that had ever been issued to Himco. To my
19 knowledge there was no permit disclosed at that time.

20 MR. CHURCH: There was a permit disclosed. It
21 was given to you.

22 MR. HERRON: Okay. I'll follow that through.

23 Q When did you last dump at the County Road 10 location?

24 A September of '76.

25 Q Has that dump been closed?

1 A We were not dumping there, if that's what you mean by
2 "closed."

3 Q Has that dump been closed according to the require-
4 ments and regulations?

5 A We are still working in some of the areas there to
6 cover. It is covered but we are still--you know, have
7 some areas that we are putting more cover onto.

8 Q During the period of time from 1969 until the time
9 that dump was closed how many days per week did you haul
10 to that dump?

11 A Seven days.

12 Q What hours during the day did you haul to that dump?

13 A Normally in the area of--anywhere between three or
14 four o'clock in the morning--that would vary--to eight-
15 thirty to nine o'clock in the evening.

16 Q Who did Himco Waste Away Service, Inc., haul waste
17 for?

18 A Who did we haul waste for?

19 Q Yes.

20 MR. CHURCH: Are you asking for a specific list
21 of customers?

22 MR. HERRON: Yes.

23 A I couldn't cover that at this time.

24 Q To the best of your knowledge will you recite every
25 person between 1969 and the time the dump was closed that

1 you hauled for.

2 MR. CHURCH: We have already refused to disclose
3 that, without a protective order, in our previous discovery.
4 It is confidential information that would be disruptive to
5 his business and could cause damage to it if disclosed
6 without a protective order.

7 MR. HERRON: Are you instructing him not to
8 answer the question?

9 MR. CHURCH: Yes, I will.

10 Q Did Himco Waste Away Service, Inc., during that period
11 of time haul for Miles Laboratories?

12 A Yes, we did.

13 Q What waste did you haul for Miles Laboratories?

14 A Would you ask the question again in a more--you know,
15 more specifically? We know we had the calcium sulphate.
16 What other waste are you questioning?

17 Q I am asking you what waste you hauled for Miles
18 Laboratories.

19 A The only waste that I know of is the solid waste that
20 they gave to us to haul. The breakdown of it I couldn't
21 tell you. Varied anywhere from paper to wood.

22 Q Did you ever haul any Alka-Seltzer packages?

23 A I'm sure that we have. When you say "Alka-Seltzer
24 packages," you mean the foil packs?

25 Q Did you?

1 A I said yes.

2 Q How long did you haul the waste of Elkhart General
3 Hospital to that location?

4 A Five, maybe six years.

5 Q When did you start?

6 A Again I'm not sure but I would say in the late sixties,
7 possibly '70, '71.

8 Q Mr. Himes, are you familiar with the fact that there
9 were new wells drilled at the residences of the three
10 plaintiffs in this cause in 1974?

11 A Yes.

12 Q Who made the arrangement for the drilling of those
13 wells, do you know?

14 A I did.

15 Q Why did you drill those wells?

16 A There was an alleged problem--an alleged problem was
17 brought to my knowledge, and felt that this was the best
18 way to solve the problem at that time was to put the wells
19 in to satisfy the neighbors of ours.

20 Q What brought the problem to your attention?

21 A I believe I had received a letter from Mrs. Rumfelt
22 and the other neighbors adjoining her that she had a
23 problem with her water.

24 Q Did you ever discuss that problem with the complaining
25 people?

1 A I'm sure that I had, yes, after I had received the
2 letters.

3 Q When did you first receive complaints from the
4 Rumfelts, the Wisemans, and the Kolanowskis regarding
5 water problem?

6 A I would say it would have to be in the area of '74--
7 was that the date you gave for the placement of the wells?
8 Probably would have been in the spring of '74.

9 Q In the spring of '74 was the first time you heard
10 complaints?

11 A Yes.

12 Q ---from these people regarding their water supply?

13 A Yes.

14 Q Did you ever discuss the drilling of these wells with
15 the Indiana State Board of Health prior to their being
16 drilled?

17 A Yes.

18 Q When did you first have discussion with the Indiana
19 State Board of Health regarding that water supply?

20 A Probably following the receiving of the letters, by
21 maybe two weeks after I had received the letters.

22 Q Who initiated contact regarding the water problem,
23 the Indiana State Board of Health or Himco Waste Away
24 Service, Inc.?

25 A Say that again.

1 Q Who initiated the contact between you and the State
2 Board of Health?

3 A I believe they did.

4 Q The Indiana State Board of Health?

5 A I'm sure.

6 Q Who drilled those wells for you?

7 A A firm by the name of Lewis.

8 Q Where are they located?

9 A Cassopolis.

10 Q Did you have any discussions with any representatives
11 from Miles Laboratories prior to the drilling of those
12 wells?

13 A Yes, I'm sure that I did, told them what we were
14 going to do.

15 Q Who did you discuss it with, can you recall?

16 A I believe Elmer Hartgerink.

17 Q When did you have conversation with him regarding
18 the drilling of those wells?

19 A Approximately the same time. Approximately the same
20 time span of the contact with the people and the State
21 Board of Health.

22 Q How long before the new wells were drilled did you
23 first receive complaint from the neighbors as to the
24 pollution of the water?

25 A Couple weeks, maybe four weeks, two weeks.

1 Q Two weeks to four weeks?

2 A (Nodding head affirmatively.)

3 Q And you maintain that the first knowledge you had of
4 a problem with the water and the wells on the outside of
5 the dump was two to four weeks before these wells were
6 drilled?

7 A That's right.

8 (Charles Himes Deposition Exhibit
9 No. 1 marked for identification
10 and retained by counsel for the
11 plaintiffs.)

12 Q Mr. Himes; before we go into this, let me clarify a
13 point. Who would have been the person at Himco most well
14 acquainted with the opening of the dump at County Road 10?

15 A I would say Mr. Himes, Sr., at that period of time.

16 (Charles Himes Deposition Exhibit
17 No. 2 marked for identification
18 and is attached hereto.)

19 Q Mr. Himes, I hand you what has been marked as Himes
20 Deposition Exhibit No. 2 and ask you to examine that.

21 What is that document?

22 A Stipulated Findings of Fact and Consent Agreement.

23 Q And that is entered into between Himco Waste Away
24 Service, Inc., and the Indiana Stream Pollution Control
25 Board, is that correct?

A That's correct.

Q ---on February 11, 1975.

Did you sign that agreement?

A Yes, I did.

Q Who negotiated that agreement, Mr. Himes?

A Our attorneys, more than likely Mr. Meteiver.

Q Did you participate in the negotiation of this agreement?

A Indirectly, yes.

Q In what way?

A Consulting with my attorneys.

Q Did you ever discuss this agreement with anyone other than your attorneys prior to it being signed?

A I'm sure I had. Like who?

Q Who did you discuss it with?

A I'm sure we discussed it amongst ourselves within the corporation. More than likely discussed it with somebody from the State Board of Health.

Q Who in the State Board of Health did you discuss this with?

A Could have been Dove or Lamb.

Q Roland Dove?

A Not Dove, I'm sorry. Opel rings a bell with me.

Q Brian Opel?

A Possibly.

Q Did you ever go to Indianapolis to meet with the State Board of Health to discuss this agreement?

1 A Yes, I believe I did.

2 Q When was that meeting?

3 A I don't recall.

4 Q Will you do your best to identify the date as best
5 you can?

6 A It would have had to have been the summer of--is
7 this (indicating) the date of the agreement? It would
8 have been the summer of '74.

9 Q In the summer of '74.

10 Did you travel to Indianapolis?

11 A Yes, I did.

12 Q Who traveled to Indianapolis with you?

13 A I don't know. I assume that I drove by myself.

14 Q Did Mr. Mateiver go with you?

15 A I believe he was there. He did not ride with me, to
16 my knowledge. I think he was already there.

17 Q Was anyone representing Miles Laboratories there?

18 A I don't recall. I feel that maybe Hartgerink maybe
19 possibly could have been there.

20 Q Do you believe Mr. Hartgerink was there?

21 MR. ORENCHAIN: He didn't say that. Read him
22 what he said.

23 MR. HERRON: I asked him a question.

24 MR. ORENCHAIN: He answered it. You are trying
25 to paraphrase to make the answer an entirely different

1 answer. I don't approve of that. If you want to take it
2 to the judge, I will, so let's don't do that.

3 (Last question read.)

4 A Hard to remember, really.

5 Q Did you ever discuss this consent decree with anyone
6 from Miles Laboratories?

7 A Possibly could have. To identify who, I don't recall.

8 Q Did you ever discuss it with Frank Breckenridge?

9 A I could have. I could have.

10 Q Did you go to Indianapolis more than one time to
11 discuss this decree?

12 A To the best of my knowledge I went once.

13 Q Mr. Himes, were you familiar with the statutes
14 pertaining to dumps that were on the books in 1969
15 through September of 1976?

16 A No.

17 Q Did you ever make an effort to familiarize yourself
18 with the statutes pertaining to the operation of dumps?

19 A I'd say no, because I'm not aware of statutes that
20 you are mentioning.

21 Q In this Stipulated Findings of Fact and Consent
22 Agreement which you signed you state that the Stream
23 Pollution Control Board of the State of Indiana is an
24 agency of the State of Indiana duly empowered to hold
25 administrative hearings to determine whether or not there

1 have been violations of Indiana Code 1971, 13-7, and to
2 enter an order requiring the taking of such action as is
3 indicated by the circumstances to cause the abatement of
4 such violations; that the Stream Pollution Control Board
5 has jurisdiction over both the subject matter and the
6 parties to the action.

7 That is what you agreed to, is that correct?

8 A Yes.

9 Q You acknowledge there that the statutes in question
10 control the operation of the Himco dump, is that correct?

11 WITNESS: Would you repeat the question?

12 (Last question read.)

13 A By signing the paper here, I'd say yes.

14 Q When were you first ordered to close the dump at
15 County Road 10?

16 A I'm not sure of the date. I would estimate somewhere
17 in '74.

18 Q Didn't you state in this agreement that you had
19 received a letter on July 2, 1974?

20 A Okay. Yes.

21 MR. CHURCH: I believe that was just what he
22 testified to.

23 Q When did you close the dump out there?

24 A Latter part of--September, October of 1976.

25 Q I believe you stated September of '76, didn't you?

1 A September, October of '76. I am getting my years--
2 let me think a moment. Yes.

3 Q September?

4 A September or October of '76.

5 MR. OBENCHAIN: We have a little discrepancy
6 here I'd like to clear up at this point. Heretofore you
7 have used the term "closed" in one sense and now you are
8 using it in another sense I take it. Because the witness
9 has already testified that they stopped dumping in
10 September or October of 1976 and he has not closed it
11 because there is some more work to be done.

12 MR. HERRON: Agreed.

13 MR. OBENCHAIN: Tell him what sense you are
14 using the word "closed." Can we clarify that?

15 MR. HERRON: I agree. In the sense of cease
16 dumping.

17 WITNESS: Correct.

18 Q What did you dump there following February 11, 1975?

19 A Solid waste.

20 Q Did you dump waste from Elkhart General Hospital?

21 A I don't recall--don't recall.

22 Q Did you dump waste from Miles Laboratories?

23 A I'm sure we did, yes.

24 Q Did you dump medicines from Miles Laboratories during
25 that period of time?

1 A You would have to define "medicines." I think of it
2 as pharmaceutical waste.

3 Q All right. As pharmaceutical waste?

4 A Yes.

5 Q Alka-Seltzer, Bactine, Clinatext?

6 A I'm sure that those items were probably part of the
7 waste. I can't testify that I saw, you know, Alka-Seltzer
8 or Bactine. If it was part of their pharmaceutical waste
9 we would have hauled it.

10 Q Did you dump any garbage following February 11, 1974?

11 A Garbage in what sense? What do you determine as
12 "garbage"?

13 Q Well, garbage, food waste. What you put in the
14 garbage can.

15 A Food waste, no. Garbage is an all inclusive word
16 that is associated with waste, a small percentage of
17 the total, you know, waste picture.

18 Q Do you have a definition of putrescible waste?

19 A Can't say the word. No, I do not. I know what
20 putrescible waste is but ---.

21 Q What is putrescible waste?

22 A It's, you know, a waste that decomposes.

23 Q Did you dump any putrescible waste there following
24 February 11, 1974?

25 MR. STEINBRONN: '74 or '75?

1 MR. HERRON: February 11, 1975. Thank you,
2 Dick.

3 A To give you a general answer, there is always that
4 possibility that that could be into the waste but it was
5 not our design or our intent that we were hauling what
6 you are saying, you know, garbage.

7 Q Isn't it a fact that you hauled truck loads of
8 restaurant waste consisting of disposed food products
9 and dumped it there?

10 A Not truck loads, no.

11 Q Isn't it a fact that in July and August of 1976 you
12 were hauling packers full of restaurant waste and dumping
13 it at that location?

14 A Not packer-full loads of waste, no, not packer-full
15 loads. There would be ---.

16 Q What is a packer?

17 A A packer is a compacted truck. There could be, you
18 know, restaurant waste co-mingled with the other waste
19 that's on that truck, yes.

20 Q What is it that you call what you leave sitting out
21 at Elkhart General Hospital for them to put your waste in
22 and then you pick it up?

23 A That is a container,--compacter, container.

24 Q All right. Isn't it a fact that you dumped all of
25 Elkhart General Hospital's waste from February 11--

1 following February 11 up through July and August of 1976
2 out through there?

3 MR. CHURCH: I believe he testified he doesn't
4 recall.

5 A I don't believe so. I believe that at some period
6 of time we were taking it to the county landfill as well
7 as residential waste that we were hauling to the county
8 landfill.

9 Q What period of time following February 11, 1975 until
10 you ceased dumping out there, what period of time during
11 that did you take Elkhart General Hospital's waste to the
12 county landfill?

13 A I do not know.

14 Q Isn't it a fact that you only for a very short
15 period of time dumped it all out at County Road 10?

16 MR. CHURCH: I believe he has already answered
17 the question before that he doesn't. I would have to
18 object for the record to the form; very leading question.

19 MR. HERRON: This is discovery, Jeff.

20 MR. CHURCH: I object just for the record, Dick.

21 A What is your question?

22 Q Mr. Himes, isn't it a fact that following February 11,
23 until you ceased dumping out there in the fall of 1976,
24 that you hauled Elkhart General Hospital's waste out there?

25 A I don't recall.

1 Q Did you haul all of Miles Laboratories' waste out
2 there during that period of time?

3 A Yes, I did.

4 Q Did you haul all Whitehall's waste out there during
5 that period of time?

6 A Yes, I did.

7 Q When this consent agreement was entered did you advise
8 Elkhart General Hospital and Miles Laboratories and
9 Whitehall that this consent agreement had been entered
10 into?

11 A Not to my knowledge.

12 Q Miles knew of it though, didn't they?

13 A I believe they did.

14 Q Did Elkhart General Hospital know of it?

15 A I do not know.

16 Q Are you familiar with SPC 18, Indiana State Board of
17 Health SPC 18?

18 A Yes.

19 Q Do you have a definition for "hazardous waste"?

20 A I would--I will repeat what would be in 17--or,
21 SPC 18.

22 Q Well, it doesn't say much, does it?

23 A No, it doesn't.

24 Q Did you ever in your operation of this dump and in
25 the management of Himco Waste Away Service, Inc., ever

1 make any effort to obtain any definition of "hazardous
2 waste"?

3 A Can't say that we did. Hazardous waste wasn't thought
4 of at that period of time. Prior to this regulation
5 hazardous waste ---.

6 Q At the time this regulation came out did you attempt
7 to determine what hazardous waste was?

8 A At the time of this regulation?

9 Q Yes.

10 A I'd say yes, I'm sure that I had.

11 Q What did you do?

12 A What did we do?

13 Q Yes.

14 A About what?

15 Q I asked you if you ever did anything to determine
16 what hazardous waste was? Now, did you or didn't you?

17 MR. CHURCH: I believe he answered the question
18 once. He said he believes he did.

19 A I believe I did.

20 Q All right. Specifically what did you do to determine
21 what was and what was not hazardous waste?

22 A Probably, you know, called ---.

23 Q No, not probably. What did you do?

24 A I don't know.

25 MR. CHURCH: I instruct the witness if you don't

1 recall, don't answer.

2 WITNESS: I don't know.

3 Q When did SPC 18 come out, do you know?

4 A No, I do not.

5 Q The consent decree says: "That no hazardous wastes
6 as defined in Chapter II, Section 19, of the Indiana Stream
7 Pollution Control Board Regulation SPC 18 be deposited."

8 Now, that's what you agreed to in this consent
9 agreement, is that correct?

10 A You didn't finish reading it. "...deposited in wet
11 areas"?

12 WITNESS: Which paragraph are you reading?

13 MR. CHURCH: He's in "b."

14 WITNESS: He's in "b"?

15 A (Answer continued) Correct.

16 Q All right.

17 Now, at the risk of getting Jeff upset here, I
18 am going to ask you again: What did you do at that time
19 to determine what was hazardous waste?

20 A I don't recall.

21 Q Okay. Had you ever done anything prior to entering
22 into this consent decree to determine what was hazardous
23 waste?

24 A Again I don't, you know, recall specifically, no.

25 Q At Paragraph "c" of this Section 1 on Page 2 of this

1 consent decree it says: "That no refuse other than those
2 materials defined by Chapter IX, Section 1, Stream
3 Pollution Control Board Regulation SPC 18, be deposited
4 in wet areas."

5 What materials are defined in Chapter IX,
6 Section 1 of SPC 18, do you know?

7 A No, I do not, without reading it.

8 Q Okay.

9 Section 1 of Chapter IX reads: "Disposal sites
10 and operations which receive only rocks, brick,
11 concrete, or earth, or any combination thereof." Did
12 you at this landfill site in wet areas dump anything
13 other than rocks, brick, concrete or earth?

14 MR. CHURCH: After what date?

15 MR. HERRON: After the date of this consent
16 agreement.

17 A To the best of my knowledge I would say no, we did not.

18 Q From 1969 through October of 1976 did you ever dump
19 in wet areas?

20 A Yes.

21 Q Is it true that you dumped in open water?

22 A Standing water?

23 Q Yes.

24 A What do you mean by--okay. Standing water?

25 Q Yes.